IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 16TH AUGUST 2006 / 25TH SRAVANA 1928

OP.No. 6350 of 2001(E)

PETITIONER:

SHAIJU,N., KUNNUMKALTHARA, PARAYAKAD P.O.,
CHERTHALA, ALAPPUZHA DIST.

BY ADV. SRI.P.SANTHOSH KUMAR (TR)

RESPONDENTS:
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1. THE JOINT REGIONAL TRANSPORT OFFICER/
TAXATION OFFICER, CHERTHALA

2. THE DEPUTY TAHSILDAR (RR), CHERTHALA.

3. FIROSH, S/O. SHAMSUDDIN, AUTHORISED AGENT OF
ASHOK FINANCIERS, SOWKARPET, MARADU VILLAGE,
NETTOOR DESOM, ERNAKULAM DIST.

R1 AND R2 BY G.P. SRI. SURARSHAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 16/08/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 10450 OF 2001 IN OP 6350 OF 2001

DISMISSED

16.8.2006 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE SURRENDER LETTER OF THE VEHICLE EXCHANGED BETWEEN THE PETITIONER AND THE THIRD RESPONDENT DATED 9.1.1999

EXT.P2 TRUE COPY OF THE LETTER ADDRESSED TO THE 1ST RESPONDENT BY THE PETITIONER DATED 26.3.1999

EXT.P3 TRUE COPY OF THE POSTAL RECEIPT OF THE REGISTRATION OF EXT.P2 LETTER ADDRESSED TO THE FIRST RESPONDENT BY THE PETITIONER DATED 31.3.99

EXT.P4 TRUE COPY OF THE SALE LETTER/AGREEMENT DATED 26.5.1999 EXECUTED BY THE THIRD RESPONDENT TO ONE SAJIMON

EXT.P5 TRUE COPY OF THE REVENUE RECOVERY NOTICE ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER DATED 4.1.2001

EXT.P6 TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE RTO ALAPPUZHA WITH COPY TO THE FIRST RESPONDENT DATED NIL

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

O.P.NO. 6350 OF 2001

Dated this the 16th day of August, 2006

JUDGMENT

O.P. is filed challenging revenue recovery proceedings for recovery of arrears of motor vehicle tax in respect of vehicle bearing registration No. KL-4-7866. Petitioner's case is that vehicle was repossessed by the third respondent, who was the financier. The third respondent later sold the vehicle, and therefore petitioner is not liable to pay tax, is his case. However, Section 3(2) of the Motor Vehicle Taxation Act authorises recovery from the registered or from the person in possession and control of the vehicle. Wherever the vehicle may be, the same can be attached and sold. Besides, tax can be recovered from the person who was the registered owner for the relevant period. Respondents 1 and 2 are directed to verify where vehicle is and if the vehicle is available, seize the same and sell the same in revenue recovery proceedings, but after following the procedure. If vehicle is not available, then recovery can be made from the registered owner for the respective period during which he was the

registered owner. If any recovery is made from the petitioner, the same should be reckoned and then only balance will be recovered. If petitioner makes payment of tax, there will be a direction to respondents to waive surcharge and allow petitioner to discharge liability exclusive of surcharge.

O.P. is disposed of as above.

(C.N.RAMACHANDRAN NAIR)
Judge